

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

	X
AHMAD ALHARBI, <i>et al.</i> ,	:
Plaintiffs,	18-cv-2435 (BMC)
- against -	:
STEPHEN MILLER, <i>et al.</i> ,	:
Defendants.	:
	X

COGAN, District Judge.

Plaintiffs ask the Court to hold the Government in contempt for its alleged failure to comply with the Court’s Preliminary Injunction. Specifically, plaintiffs point to the Government’s alleged failure to print visas for four plaintiffs (and, for one, his derivatives).

Plaintiffs’ motion is frivolous. They cannot point to anything resembling noncompliance on the part of the Government. Plaintiffs also misconstrue the effect of the Court’s prior order on the Government’s motion for reconsideration, which modified the Preliminary Injunction to require the Government only “to issue visas to those plaintiffs who clear [necessary security] assessments.”

Taking each of the disputed plaintiffs in turn shows the baselessness of plaintiffs’ motion: in its July 9, 2018 status report, the Government stated that Yassin Taher did not clear the relevant security assessment. The Court declines to second-guess the Government’s finding. In that same report, the Government stated that Ehtiram Yahya’s security check was still pending; since then, her check cleared, and Yahya has been issued a visa and travel packet. As to Emad Mugamal (and his derivatives), the doctrine of consular non-reviewability bars the Court from

revisiting the consular officer's determination that he is ineligible to receive a visa for having previously made a material misrepresentation to obtain an immigration benefit. Finally, although Lutfiah Al Gamal has not received her visa, plaintiffs acknowledge that she has not submitted for processing her required updated medical examination and passport. Clearly, no fault can be found with the Government if plaintiffs have not provided it with required documents.

The Government has expeditiously processed those complete applications that plaintiffs submitted and made permissible decisions to issue or refuse visas. The Government's conduct is squarely in line with this Court's orders, and provides no basis for a finding of contempt. On the other hand, plaintiffs' motion appears to be frivolous in both law and fact. Plaintiffs' motion for contempt [49] is denied.

SO ORDERED.

U.S.D.J.

Dated: Brooklyn, New York
September 5, 2018